IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL APPEAL NO.650 OF 1999

The State of Maharashtra .... Appellant
Vs.
Sanjay Ramchandra Bhosale .... Respondent

Shri F.R. Shaikh, APP, for the Appellant.

Shri V.V. Purwani for the Respondent.

CORAM: R.M.S. KHANDEPARKAR &
A.A. SAYED, JJ.

DATED: NOVEMBER 19, 2007

P.C:

1. Heard. Though the appeal was stated to have been admitted by order dated 2-2-2000, as it was revealed that such admission was done without hearing the respondent/accused inspite of the fact that it is an appeal against acquittal, by order dated 3-7-2007. Consequent to service of notice upon the respondent/accused, the matter was directed to be re-fixed for hearing on admission. Accordingly, this appeal has come up for hearing on admission this day.

2. By the impugned judgment dated 24-8-1999, the learned Addl. Sessions Judge, Baramati in Sessions Case No.49 of 1998 has acquitted the respondent/accused of the offences punishable under Sections 376 and 506 of the Indian Penal Code. The learned trial Judge has

disbelieved the evidence on record including that of the prosecutrix.

3. Referring to the testimony of the prosecutrix, the learned trial Judge has clearly held that her version regarding the whole incident cannot be believed. Indeed, the prosecutrix has stated that she was pulled by the accused from the rear side of her house to the bushes and there she was raped by the accused. The evidence on record clearly discloses that the house of the prosecutrix is surrounded by other houses, occupied by various people. Even at the rear side of the house of the prosecutrix there are houses and in case the prosecutrix was pulled by the accused, she could have easily raised alarm whereby people could have gathered and could have rushed to her help to rescue her from the accused. There is no explanation nor any evidence of even an attempt having been made to raise alarm by the prosecutrix when the accused had allegedly attempted to pull the prosecutrix towards the bushes. The location of the prosecutrix's house clearly lends support to the finding arrived at by the trial Court and even clearly discloses that her testimony cannot be believed. It is also pertinent to note that had the prosecutrix raised alarm at the relevant time, at least the inmates of her house could have rushed to her help. There is evidence on record clearing disclosing that Chandanshive and

Kamble are the residents in the neighbourhood of the house of the prosecutrix. It is really surprising as to how she could not raise any alarm at the relevant time so that the people residing around could have rushed to her help in case the accused was misbehaving with the prosecutrix. The other evidence on record which has been referred to by the lower Court also raises doubt about the genuineness of the grievance of the prosecution in the matter.

4. Though the prosecutrix's inner clothes, which she was wearing at the relevant time, were attached and disclosed blood marks, undisputedly, the prosecutrix did not suffer any injury at the relevant time nor the doctor who had examined her could locate any such injury on her body. In the circumstances, the blood marks on the inner clothes of the prosecutrix remained unexplained.

5. The materials on record also disclose that the accused was not subjected to medical examination.

6. In the circumstances, no fault can be found with the impugned judgment disbelieving the prosecution's case and acquitting the respondent. There being no case made out for interference, the appeal is rejected and consequently stands dismissed.

(A.A. Sayed, J.) (R.M.S.Khandeparkar, J.)

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